

107TH CONGRESS
2D SESSION

H. R. 5542

To consolidate all black lung benefit responsibility under a single official,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2002

Ms. HART (for herself, Mr. NORWOOD, Mr. WAMP, and Mr. SHIMKUS) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To consolidate all black lung benefit responsibility under
a single official, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Black Lung Consolida-
5 tion of Administrative Responsibility Act”.

6 **SEC. 2. TRANSFER OF PART B BLACK LUNG BENEFIT RE-** 7 **SPONSIBILITIES FROM COMMISSIONER OF** 8 **SOCIAL SECURITY TO SECRETARY OF LABOR.**

9 (a) IN GENERAL.—Part B of the Black Lung Bene-
10 fits Act (30 U.S.C. 921 et seq.) other than section 415(b)

1 (30 U.S.C. 925(b)) is amended by striking “Commissioner
2 of Social Security” each place such term appears and in-
3 serting “Secretary”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 402 of such Act (30 U.S.C. 902) is
6 amended—

7 (A) in subsection (c), by striking “where
8 used in part C” and inserting “, except where
9 expressly otherwise provided,”;

10 (B) in subsection (f)(1), by inserting after
11 “Secretary of Health, Education, and Welfare”
12 the following: “, which were in effect on the
13 date of enactment of the Black Lung Consolida-
14 tion of Administrative Responsibilities Act,”;

15 (C) in subsection (f)(2)—

16 (i) by striking “which is subject to re-
17 view by the Secretary of Health, Edu-
18 cation, and Welfare,” and inserting “aris-
19 ing under part B”; and

20 (ii) by striking the comma after “Sec-
21 retary of Labor”; and

22 (D) in subsection (i), by amending para-
23 graph (1) to read as follows:

1 “(1) for benefits under part B that was denied
2 by the official responsible for administration of such
3 part; or”.

4 (2) Section 413(b) of such Act (30 U.S.C.
5 923(b)) is amended by striking “In carrying out the
6 provisions of this part” and all that follows through
7 “Social Security Act, but no” and inserting “No”.

8 (3) Section 415 of such Act (30 U.S.C. 925) is
9 amended—

10 (A) in subsection (a), by striking para-
11 graph (2) and redesignating paragraphs (3)
12 through (5) as paragraphs (2) through (4), re-
13 spectively; and

14 (B) in subsection (b), by striking “, after
15 consultation with the Commissioner of Social
16 Security,”.

17 (4) Section 426 of such Act (30 U.S.C. 936) is
18 amended—

19 (A) in subsection (a), by striking “, the
20 Commissioner of Social Security,”; and

21 (B) in subsection (b), by amending the
22 first sentence to read as follows: “At the end of
23 fiscal year 2003 and each succeeding fiscal
24 year, the Secretary of Labor shall submit to the

1 Congress an annual report on the subject mat-
2 ter of parts B and C of this title.”.

3 (5) Public Law 94–504 (30 U.S.C. 932a) is
4 amended by striking “under part C” and inserting
5 “under part B or part C”.

6 (c) REPEAL OF OBSOLETE PROVISIONS.—The fol-
7 lowing provisions of law are repealed:

8 (1) Section 435 of the Black Lung Benefits Act
9 (30 U.S.C. 945).

10 (2) Sections 11 and 19 of the Black Lung Ben-
11 efits Reform Act of 1977 (30 U.S.C. 924a, 904).

12 **SEC. 3. TRANSITIONAL PROVISIONS.**

13 (a) APPLICABILITY.—This section shall apply to the
14 transfer of all functions relating to the administration of
15 part B of subchapter IV (30 U.S.C. 901 et seq.) from the
16 Commissioner of Social Security (hereinafter in this sec-
17 tion referred to as the “Commissioner”) to the Secretary
18 of Labor, as provided by this Act.

19 (b) TRANSFER OF ASSETS, LIABILITIES, ETC.—

20 (1) The Commissioner shall transfer to the Sec-
21 retary of Labor all property and records that the Di-
22 rector of the Office of Management and Budget de-
23 termines relate to the functions transferred to the
24 Secretary of Labor by this Act or amendments made
25 by this Act.

1 (2) Section 1531 of title 31, United States
2 Code, shall apply in carrying out this Act and
3 amendments made by this Act, except that, for pur-
4 poses of carrying out this Act and amendments
5 made by this Act, the functions of the President
6 under section 1531(b) shall be performed by the Di-
7 rector of the Office of Management and Budget un-
8 less otherwise directed by the President.

9 (c) CONTINUATION OF ORDERS, DETERMINATIONS,
10 ETC.—

11 (1) This Act shall not affect the validity of any
12 order, determination, rule, regulation, operating pro-
13 cedure (to the extent applicable to the Secretary of
14 Labor), or contract that—

15 (A) relates to a function transferred by
16 this Act; and

17 (B) is in effect on the date this Act takes
18 effect.

19 (2) Any order, determination, rule, regulation,
20 operating procedure, or contract described in para-
21 graph (1) shall—

22 (A) apply on and after the effective date of
23 this Act to the Secretary of Labor; and

24 (B) continue in effect, according to its
25 terms, until it is modified, superseded, termi-

1 nated, or otherwise deprived of legal effect by
2 the Secretary of Labor, a court of competent
3 jurisdiction, or operation of law.

4 (d) CONTINUATION OF ADMINISTRATIVE PRO-
5 CEEDINGS.—

6 (1) Any proceeding before the Commissioner in-
7 volving the functions transferred by this Act that is
8 pending on the date this Act takes effect shall con-
9 tinue before the Secretary of Labor, except as pro-
10 vided in paragraph (2).

11 (2) Any proceeding pending before an Adminis-
12 trative Law Judge or the Appeals Council pursuant
13 to part B and the applicable regulations of the Sec-
14 retary of Health and Human Services shall continue
15 before the Commissioner consistent with the fol-
16 lowing provisions:

17 (A) Any proceeding described in this para-
18 graph shall continue as if this Act had not been
19 enacted, and shall include all rights to hearing,
20 administrative review, and judicial review avail-
21 able under part B and the applicable regula-
22 tions of the Secretary of Health and Human
23 Services.

24 (B) Any decision, order, or other deter-
25 mination issued in any proceeding described in

1 this subsection shall apply to the Secretary of
2 Labor and continue in effect, according to its
3 terms, until it is modified, superseded, termi-
4 nated, or otherwise deprived of legal effect by
5 the Secretary of Labor, a court of competent
6 jurisdiction, or operation of law.

7 (C) Nothing in this paragraph shall be
8 deemed to prohibit the discontinuance or modi-
9 fication of any such proceeding under the same
10 terms and conditions and to the same extent
11 that such proceeding could have been discon-
12 tinued or modified if this Act had not been en-
13 acted.

14 (3) Any proceeding before the Secretary of
15 Labor involving the functions transferred by this Act
16 shall be subject to the statutory requirements for no-
17 tice, hearing, action upon the record, administrative
18 review, and judicial review that apply to similar pro-
19 ceedings before the Commissioner conducted prior to
20 the enactment of this Act.

21 (e) CONTINUATION OF ACTIONS AND CAUSES OF AC-
22 TION.—

23 (1) Except as provided in paragraphs (2) and
24 (3), this Act shall not abrogate, terminate, or other-
25 wise affect any action or cause of action, that—

1 (A) relates to a function transferred by
2 this Act; and

3 (B) is pending or otherwise in existence on
4 the date this Act takes effect.

5 (2) Any action pending before the Commis-
6 sioner or any court on the date this Act takes effect
7 that involves a function transferred by this Act shall
8 continue before the Commissioner or court con-
9 sistent with the following provisions:

10 (A) Any proceeding described in this para-
11 graph shall continue as if this Act had not been
12 enacted.

13 (B) Any decision, order, or other deter-
14 mination issued in any proceeding subject to
15 this paragraph shall apply to the Secretary of
16 Labor and continue in effect, according to its
17 terms, until it is modified, superseded, termi-
18 nated, or otherwise deprived of legal effect by
19 the Secretary of Labor, a court of competent
20 jurisdiction, or operation of law.

21 (3) Any cause of action by or against the Com-
22 missioner that exists on the date this Act takes ef-
23 fect and involves any function transferred by this
24 Act may be asserted by or against the Secretary of
25 Labor or the United States.

1 (f) CONTINUATION OF ACTIONS AGAINST OFFI-
2 CERS.—No suit, action, or other proceeding commenced
3 by or against any officer in his official capacity as an offi-
4 cer of the Social Security Administration, and relating to
5 a function transferred by this Act, shall abate by reason
6 of the enactment of this Act. No cause of action by or
7 against the Social Security Administration, or by or
8 against any officer thereof in his official capacity, relating
9 to a function transferred by this Act, shall abate by reason
10 of enactment of this Act.

11 (g) PRESERVATION OF PENALTIES, ETC.—The trans-
12 fer of functions under this Act shall not release or extin-
13 guish any penalty, forfeiture, liability, prosecution, inves-
14 tigation, or right to initiate a future investigation or pros-
15 ecution involving any function transferred by this Act.

16 **SEC. 4. EFFECTIVE DATE.**

17 This Act, and the amendments made by this Act,
18 shall take effect 90 days after the date of enactment of
19 this Act.

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